



# Indiana Judicial Nominating Commission

30 South Meridian Street, Suite 500  
Indianapolis, IN 46204  
(317) 232-4706

## Application for the Indiana Supreme Court

The application for the Spring 2016 vacancy on the Indiana Supreme Court includes two parts. Both Part One and Part Two must be completed. Part Two *must* be provided separately as directed in the instructions. Answers in Part One and Part Two are a matter of public record and will be supplied to the media and public upon request. However, only answers in Part One may be posted online by the Indiana Judicial Nominating Commission.

### Part One, Sections 1-11

#### 1. Contact/General Information

A. Full legal name and any former names.

**Eugene Nelson Chipman, Jr.**

B. State the full name (use initials for minor children), age, and relationship of each person residing in your household. For each adult living in the household (other than yourself), also state the person's occupation and employer.

**Susan L. Sauer, 54, partner.**

**Office Administrator, Marshall County Prosecutor's Office. Employer: Marshall County, Indiana**

C. Business address, email, and telephone number.

**Office of the Prosecuting Attorney**

**112 W. Jefferson St.**

**Plymouth, IN 46563**

**[nelsonc@co.marshall.in.us](mailto:nelsonc@co.marshall.in.us)**

**574.935.8666**

D. Attorney number.

**3882-50**

E. Month and year you were admitted to the Indiana Bar.

**May, 1981**

a. Indicate current law license status, i.e. active/inactive/retired.

**Active**

- b. If you are or have been a member of the Bar of any other state, identify the jurisdiction and provide date(s) of admission and current license status.

**Not applicable.**

- F. Date and place of birth.

**March 3, 1954  
Norfolk, Virginia**

- G. County of current residence and date you first became a resident.

**Marshall County, Indiana  
May, 1959**

2. Secondary Education/Military Experience

- A. List all undergraduate colleges and universities you attended. Include the school name; dates enrolled; degree or certificate earned; and any academic honors, awards, or scholarships you received and when.

<u>School</u>	<u>Dates Enrolled</u>	<u>Degree</u>	<u>Honors</u>
<b>Hanover College Hanover, IN</b>	<b>August-December, 1972</b>		
<b>Indiana University Bloomington, IN</b>	<b>January, 1973-May, 1976</b>	<b>Bachelor of Arts Sociology/Forensics Studies</b>	<b>Dean's List</b>

- B. Include with your original application a certified transcript from each school named in Subsection 2A, and attach copies of each transcript to each application copy. (If your social security number is on your transcripts, redact it *before* copying.)

**Transcripts attached under Tab A.**

- C. If applicable, list any military service. Include the name of the military branch; dates of service; last rank achieved; and any honors, awards, or commendations received and when. Attach a copy of your Certificate of Release or Discharge from active duty ("DD 214" paperwork).

**Not applicable.**

3. Post-Secondary Education

- A. List all law schools, graduate schools, and post-J.D. programs attended. Include the school name; dates enrolled; degree or certificate earned; class rank; and any academic honors, awards, or scholarships you received and when.

<u>School</u>	<u>Dates Enrolled</u>	<u>Degree</u>	<u>Honors</u>
Institute of Criminology and Criminal Justice University of Maryland College Park, MD	1976-1978		Dean's List; Teaching Assistant Stipend
Valparaiso School of Law Valparaiso University Valparaiso, IN	1978-1981	Juris Doctor  Rank 26/82	Top Grade Legal Writing & Research; Associate Editor, Law Review; Mock Trial Team Competition; Honor Court Prosecutor

- B. Include with your original application a certified transcript from each school named in Subsection 3A, and attach copies of each transcript to each application copy. (If your social security number is on your transcripts, redact it *before* copying.)

**Transcripts attached under Tab B.**

#### 4. Employment

- A. Provide your employment history since graduation from college. Include name of employer, titles or positions, locations, and dates of employment.

**May, 1976. Laborer at Labas Chevrolet, Plymouth, IN.**

**Fall, 1976. Intern Investigator, Office of the Federal Public Defender for the District of Columbia, Washington D.C.**

**Summer, 1977. Office of Ombudsman, Office of Governor Otis R. Bowen. Assisted the Director with investigating, interviewing, and resolving complaints between inmates in the Department of Corrections and DOC staff.**

**Fall, 1977 to Summer, 1978. Teaching Assistant to both undergraduate and graduate faculty in the Institute of Criminology and Criminal Justice, University of Maryland, College Park, Md.**

**Summer, 1978. Self-employed house painter, Plymouth, IN.**

**Summer, 1979 to Spring, 1981. Law Clerk with the firm Morrison & Humphrey, Plymouth, IN.**

**Summer to Fall, 1981. Associate in the Law Office of Jere L. Humphrey, Plymouth, IN.**

**Fall 1981 to December 31, 1988. Partner in firm of Chipman & Chipman, Plymouth, IN.**

**January 1, 1989 to December 31, 2000. Solo practice of law as Chipman Law Office, Plymouth, IN.**

**January 1, 2001 to December 31, 2007. Employed by City of Elkhart, IN as Elkhart City Attorney, but also in related dual capacities as Director of Human Resources, and later as Director of the Office of Public Safety.**

**January 1, 2008 to February 28, 2012. Plymouth City Attorney, Plymouth, IN.**

**March 1, 2012 to December 31, 2014. Chief Deputy Prosecuting Attorney for the 72<sup>nd</sup> Judicial Circuit, Marshall County, IN with offices in Plymouth, IN. Employed by the State of Indiana.**

**January 1, 2015 to present. Prosecuting Attorney for the 72<sup>nd</sup> Judicial Circuit, Marshall County, IN, with offices in Plymouth, IN. Employed by the State of Indiana.**

- B. If applicable, describe the nature and extent of your practice of law (present and former), and provide the names of your partners, associates, office mates, and employers.**

**I have enjoyed an extraordinarily diverse legal career. My experience in the private practice of law spans the twenty years from 1981 to 2001. I started as an associate with Jere L. Humphrey and took clients in the areas of family law, contracts, probate, real estate, personal injury, and criminal defense. Sometime in the fall of 1981, my father, Eugene N. Chipman, Sr., left the appellate bench and we formed a partnership practicing in the same general areas of law. I expanded my practice in 1984 when appointed a Marshall County Public Defender in 1984 as a part-time contract position that allowed me to maintain the private practice partnership. The public defender position came to an end when I was appointed a Deputy Prosecuting Attorney for Marshall County in 1987, then a part-time position that allowed me to continue in the private practice. I again expanded my practice into the field of municipal law by accepting appointment to another part-time contract position as Plymouth City Attorney in 1988, a position I thoroughly enjoyed for the next twelve years.**

**In the interim, the partnership with my father dissolved when he was elected to the trial bench in 1989. I was then in solo practice for the next twelve years. I accepted another part-time position teaching trial advocacy as an Adjunct Professor of Law at Valparaiso University School of Law from 1992 until 1995. I continued with the general practice in the areas of domestic relations, probate, real estate, and personal injury. After seven years I left the prosecutor's office in 1994 and was soon appointed again as a public defender in 1995. I had one very loyal secretary the entire time, Betty Kuhn.**

**Early on it became evident that employment law was a significant part of the practice of municipal law. In response I enrolled in a semester course on Human Resources and later, after a standardized national examination, became certified as a Senior Professional in Human Resources, by the Certification Institute of the Society of Human Resource Management (SHRM). The Plymouth City Attorney position came to an end on December 31, 1999 when the late Mayor Jack Greenlee was not re-elected to a third term. While continuing in the general practice of law, including as a part-time public**

defender, I was appointed in approximately May, 2000 as Elkhart City Attorney, itself a part-time position. That position transitioned into full-time employment beginning January 1, 2001. I left the private practice of law on that date.

My practice of municipal law while employed by the City of Elkhart was itself diverse. Colleagues included Corporation Counsel Vlado Vranjes, Deputy City Attorney Larry Metiever, and Paralegal Crystal Rogers. My responsibilities were almost exclusively focused upon employment law, collective bargaining, employee discipline, resolving employee grievances and the development of employment policies. I was the lead management negotiator with four different collective bargaining units. On extended occasions, I held the dual positions of City Attorney and interim Director of Human Resources in 2001, and for various periods from 2003 through 2005. After an extensive reorganization of city government in 2006, I held the dual position of City Attorney and Director of the Office of Public Safety. My employment with Elkhart came to an end on December 31, 2007 as Mayor David Miller chose not to seek a third term in office.

On January 1, 2008 I was appointed by Mayor Mark Senter to the newly created full time position of Plymouth City Attorney. My responsibilities with Plymouth expanded to the full gamut of municipal law, including environmental, municipal finance, and governance. In addition I completed in August, 2009 the 40 hour Basic Public Policy Mediation Training offered at Indiana University School of Law, Indianapolis. I also became very active in the Indiana Municipal Lawyers Association, eventually serving as its president, and the Indiana Association of Cities and Towns.

In early 2012, Prosecuting Attorney David R. Holmes enticed me with my first love, criminal prosecution. He appointed me his Chief Deputy Prosecuting Attorney on March 1, 2012. I immediately resumed jury trial work and met the pressing challenges related to methamphetamine production and consumption, as well as other serious felonies. The office has built a reputation of being thorough, firm, and fair. In November, 2014 I was elected as Prosecuting Attorney for the 72<sup>nd</sup> Judicial Circuit, which is where I remain today. I manage a staff of fifteen, including a Chief Deputy Prosecutor (Tami Napier) and two county paid Deputy Prosecuting Attorneys (Lynn Berndt and Matt Sarber). Together we seek justice in close to 700 felonies a year, 1200 misdemeanors, and 5000 infractions. I personally represent the State of Indiana in the eighty-five or so children formally charged in the Juvenile Division of the Marshall Circuit Court during an average year. I also personally handle the thirty-five or so mental commitments initiated annually by a privately owned local psychiatric in-patient facility. The Child Support Division of our office establishes paternity, enforces support orders through the collection of approximately 5.5 million dollars a year in support payments, and consistently scores high marks on the federally required metrics for Title IVD. Evidently our reputation has traversed the county line as I have been appointed special prosecutor to conduct investigations on public corruption and malfeasance in office in three different surrounding counties. The last four years have been some of the most professionally rewarding of my career.

## 5. Trial/Judicial Experience

- A. Describe the extent of your jury trial experience, if any.

**As a civil attorney, private defense counsel, public defender, deputy prosecuting attorney, Chief Deputy Prosecutor and the elected Prosecuting Attorney, I have tried approximately 100 jury trials.**

- B. Describe the extent of your bench trial experience, if any.

**In the same capacities as described in A. above, it is difficult to estimate the number of bench trials. Easily though, the number would be several hundred.**

- C. If applicable, describe the nature and extent of your judicial experience (including as a judge *pro tempore*). Include a description of your experience presiding over jury trials, if any.

**My judicial experience is strictly limited to *pro tempore* appointments. During the twelve years I have been a prosecutor, we have never been appointed as a matter of policy. During the years of my private practice, I volunteered and was appointed dozens of times. The vast majority of those appointments were to handle routine matters such as the approval of CCS entries, initial hearings in criminal cases, and the acceptance of plea agreements and corresponding sentencings. I was never afforded the opportunity to preside over a jury trial, although I tried. On one occasion, though, I was handed a criminal case in which a motion to dismiss was to be argued. I issued an almost five page decision on the motion to dismiss, which has been included as a writing sample. The decision to grant the motion to dismiss was affirmed by the Court of Appeals in a published opinion entitled *State of Indiana v. Frederick Drubert, Jr.*, 686 N.E.2d 918 (Ind. App. 1997).**

**Through the years I have requested appointment approximately 8 times on various Saturdays in order to preside over the marriages of friends and acquaintances.**

6. Professional Experience

***Include as writing samples, four selections (in total) from the written materials listed below in Subsections 6A – 6C.***

**Writing samples are attached under Tab C.**

- A. If applicable, list up to five trial or appellate briefs and/or judicial opinions you have written. Refer to them by caption, case number, and filing date.

- 1. State's Memorandum in Opposition to Defendant's Motion to Dismiss, *State of Indiana vs. Russell A. Prosser, Jr.*, 50D02-1312-FB-0076. Filed May 14, 2014.**
- 2. Brief of Amici Curiae in Support of City of Kokomo and in Opposition to Petition to Transfer to Indiana Supreme Court, *City of Kokomo, Indiana and Kokomo Board of Public Works and Safety vs. John J. Iseminger and Professional Firefighters of Kokomo Local 396, Inc.*, No. 34A02-0701-CV-54. Filed October 29, 2007.**

3. **Brief of Appellants, *Teresa D. Figert and Byron Green vs. State of Indiana*, No. 50A03-9612-CR-446. Filed March 3, 1997.**
  4. **Appellants' Petition to Transfer to the Indiana Supreme Court, *Teresa D. Figert and Byron Green vs. State of Indiana*, No. 50S03-9709-CR-473. Filed July 22, 1997.**
  5. **Order on Defendant's Motion to Dismiss, *State of Indiana vs. Frederick D. Drubert, Jr.*, 50D02-9607-DF-137. Filed November 20, 1996. (Decision by Judge *Pro Tempore* E. Nelson Chipman, Jr.).**
- B. If applicable, list up to five legislative drafts or court rules you have written or to which you contributed significantly. Refer to them by official citation, date, and subject matter.

**House Bill 1013 Amendment #1: passed House Committee on the Courts and the Criminal Code, January 13, 2016; amends I.C. 35-33-5-9 to allow the use of an unmanned aerial vehicle by a law enforcement officer or governmental entity without obtaining a search warrant if the law enforcement officer determines the use of an unmanned aerial vehicle is required to obtain aerial photographs or video images of a motor vehicle crash site on a public street or highway. I broached the topic with IPAC and drafted the proposed amending language. IPAC officials then contacted Representative Eric Koch, the bill's original author, who agreed to initiate the amendment process. I, along with Rep. Koch, testified to the House Committee on January 13, 2016. I anticipate testifying to the corresponding Senate Committee in the near future.**

- C. If applicable, list up to five of your contributions to legal journals or other legal publications. Provide titles, official citations, and a brief description of the subject matter.
- E Nelson Chipman, Jr., Note, *The Indiana Death Penalty: An Exercise in Constitutional Futility*, 15 Val. U. L. Rev. 409 (1981). This is an extensive constitutional analysis of the statutory schemes to impose the death penalty in general, and the Indiana death penalty in particular as existed in 1980.**
- D. Identify the five most significant legal matters entrusted to you, whether as a judge or lawyer, and describe why you believe them to be so.

It is a great honor to serve as the elected prosecuting attorney of Marshall County. Several of the cases I currently handle may soon be among the most significant of my career. But ethical constraints on public disclosure make it far more appropriate to ignore for now these recent activities, and instead focus upon the broad and diverse spectrum of legal matters entrusted to me through the years.

## **1. Employment Law**

### **Municipal Reorganization 2006 (MRO2006)**

Elkhart Mayor David Miller initiated a bold plan to reorganize city government. As Elkhart City Attorney, I chaired from approximately 2001 through 2005 his Executive Management Team from which emerged the initial framework of MRO2006. The first step occurred in 2002 with a city-wide Mercer point factoring job analysis conducted by each employee holding a non-collective bargaining unit employment position. The second step in 2005 was to conduct an extensive value analysis of each of the eighteen municipal departments within city government, along with the employee positions within each of those departments.

Nine project teams were formed and assigned various tasks in the plan implementation. I headed two of the nine project teams---compensation analysis and union contracts---and assisted the legal review team in drafting the ordinances necessary to fully implement the reorganized structure. I ensured that all decisions related to job elimination, 'top-grading' the workforce, and the development and implementation of a 'pay for performance' matrix were in compliance with all state and federal employment laws, and did not violate any of the four existing collective bargaining agreements.

The result of this collaborative effort between the executive and legislative branches of local government was the realignment of eighteen city departments, all directly reporting to the mayor, into just seven offices, each managed by an Office Director. The consolidation of positions, the elimination of redundancies of function, and the utilization of labor pools resulted in the reduction of full time employment positions from 573 to 520; an overall decrease of 9.2 percent (an even greater percentage decrease if one considers that 369 positions within collective bargaining units were essentially off limits). This resulted in an estimated operating cost savings in 2006 of \$2.2 million, or a reduction of 7.5 percent in the amount budgeted for salaries and benefits.

MRO2006 was a success. It had a positive impact upon the efficient, effective and more accountable provision of essential local government services to a city of 52,000 residents. It also impacted several hundred government employees, dozens of which were unfortunately separated from employment. Plan implementation included an extensive array of out placement services for displaced workers. All employees were treated with utmost respect, compassion and dignity. And I played a major role in both the written and verbal communication to the public, to employees and to the city council about the legal and regulatory intricacies of the reorganization efforts. Transparency was a fundamental cornerstone of MRO2006. The final result was there was not one employee grievance filed, employment discrimination claim made, arbitration demanded, or law suit initiated. Municipal Reorganization 2006 successfully changed the organizational culture in the provision of local government services to the citizens of Elkhart. It was an incredibly rewarding professional experience.

## **2. Criminal Law (Defense)**

### ***Teresa Figert and Byron Green v. State of Indiana, 686 N.E.2d 827 (Ind. 1997).***

I was appointed public defender to represent Byron Green in May, 1996 on felony charges of possession and dealing cocaine and some lesser misdemeanor counts. His cohabitating girlfriend, Teresa Figert, was similarly charged. Having exhausted the available public defenders for possible appointment, a young inexperienced lawyer was appointed to Ms.



Figert. I gladly assumed the role of mentor for that lawyer and encouraged him to follow my lead.

The first line of defense was to challenge the search and seizure with a dual motion to suppress evidence. A secondary matter was to consolidate the two hearings into one. As always, it was essential to create a sufficiently detailed record for appellate review, so the suppression hearing was in depth.

The trial court denied both motions to suppress. We were then faced with either accepting an attractive plea offer or pursue an interlocutory appeal. If we failed in the interlocutory certification process, then we would be trying the case with a potential sentence far greater than what was being offered by plea agreement. I consistently asserted the affidavit for probable cause in support of the search warrant was constitutionally deficient and an appeal was worth the associated risks. Ms. Figert had long since been released from pretrial detention so the decision to appeal for her was easy. Mr. Green, however, remained incarcerated.

The trial court certified both cases for interlocutory appeal. The Indiana Court of Appeals agreed to both hear the appeal and to consolidate both cases into one, requiring only one briefing schedule for both appellants. I handled the appeal in its entirety, including the construction of the transcript. I taught the younger lawyer as the appellate process progressed.

In June 1997 the Indiana Court of Appeals, in a two to one decision, affirmed the trial court's denial of the motion to suppress. Interestingly, the Court unanimously agreed the search warrant affidavit did not establish probable cause to support the search of Green and Figert's mobile home. Two judges, though, found that the 'good faith exception' announced in United States Supreme Court precedent, and later codified in Indiana law, supported the denial of the motion to suppress. In an eloquent dissent, Judge Staton disagreed.

I filed a Petition to Transfer to the Indiana Supreme Court. (The Petition to Transfer is included as one of my four writing samples.) On September 3, 1997 the Supreme Court "granted transfer to address application of the 'good faith' exception to the exclusionary rule." *Id.* On October 23, 1997, a unanimous Indiana Supreme Court held that not only was probable cause not established by the affidavit, but the affidavit was also so deficient in any indicia of probable cause that it was entirely unreasonable for any officer to rely upon it. Accordingly, the 'good faith exception' was not available and the trial court was ordered to grant the motions to suppress. On October 30, 1997, the State dismissed all charges against Byron Green and Teresa Figert.

This case is one of the five most significant legal matters entrusted to me for several reasons. Not long before my appointment as a public defender, I had served seven years as a deputy prosecutor. The lead investigator in *Green* was an officer with whom I had worked many cases. It is considered a professional badge of merit to so readily drop the prosecutor perspective and so easily adopt an intense loyalty and passion to advocate for a criminal defendant, or vice versa. There was no rancor between me and the officers involved as we maintained mutual respect and admiration. Even after returning to the ranks of prosecutor some 15 years after the *Green* decision, the undercover detective remains today as one of the most prolific officers on the sheriff's department. He too learned much from Byron Green.

Secondly, it exemplifies the value of perseverance. One could easily get discouraged, and indeed intimidated, by the trial court's denial of the motion to suppress, followed by an attractive plea agreement offer from the State if only the defendant would admit his guilt and waive all appealable issues. Disenchantment only deepens after the intense efforts required of appellate work are answered with a two to one decision to affirm the trial court. One must not surrender, but instead continue on with a transfer petition all the while preparing oneself mentally to read those two most powerful words: "Transfer denied." That was not to be the case, however, and from then on my faith in the appellate process became unwavering.

A third consideration is the impact the *Figert/Green* decision has had over the last 19 years. As of this writing, the case has been cited 42 times---30 published opinions and 12 unpublished. It was cited as recently as 2015 by the Indiana Court of Appeals and as late as 2010 by the Indiana Supreme Court. It has been referred to by the Michigan Supreme Court and the courts of appeal in North Carolina and Washington. It is referenced in *Burn's Indiana Statutes Annotated* in its discussion of Article 1, Section 11 of the Indiana Constitution, as well as eight law reviews and periodicals, six legal treatises, and cited in briefs filed in California, Idaho and Arizona.

### **3. Environmental Law**

***Commissioner, Indiana Department of Environmental Management v. City of Plymouth, et.al.,*  
Marshall Circuit Court, Cause No.: 50C01-8711-CP-247.**

The City of Plymouth had an abysmal history of shielding the environment from the injurious impact of its wastewater. Generations of political leaders were more vested in resisting systemic improvements, than in accepting the legal, ethical, and moral responsibility to maximize even the most basic environmental protection efforts. The City built its first wastewater treatment plant only because it was ordered to do so by an administrative agency. And the City did not comply without a fight. See, *City of Plymouth, Indiana v. Stream Pollution Control Board of the State of Indiana*, 151 N.E.2d 626 (Ind. 1958).

In the years intervening between building its first facility and immediately preceding the filing of the suit by IDEM in 1987, the City of Plymouth was chronically delinquent in its statutory responsibility to adequately treat domestic sewage and monitor the pretreatment of industrial wastewater. In addition, like many Midwestern towns, the City's combined storm and sanitary sewer collection system exacerbated the deleterious impact. Wastewater discharge to the Yellow River, particularly during storm events, created a series of ecological calamities, evidenced in part by numerous fish kills. The number of fish killed, and their size and species, as counted and measured during a Department of Natural Resources survey, are important metrics used by IDEM in assessing monetary damages against a responsible party.

In early 1986, the Indiana Stream and Pollution Control Board and the City entered into a Consent Decree that established, among other things, a schedule of facility and collection system improvements for the City to complete at a cost of several million dollars. Among the most immediate objectives detailed in the decree required the City to not exceed interim effluent limitations for Biological Oxygen Demand (BOD), Total Suspended Solids (TSS), and fecal coliform limits. Other important requirements of the decree required the City to

vigorously enforce its Sewer Use Ordinance against industrial wastewater customers, and thereby maintain compliance with federal sewage pretreatment regulations imposed upon those same industrial wastewater customers by serving as the local enforcement entity for the U.S. Environmental Protection Agency. However, the City failed miserably to fulfill the promises memorialized in the Consent Decree; hence, IDEM's motivation to file suit.

1987 was a municipal election year. The incumbent mayor was seeking his sixth term in office; his challenger was a first term city councilman. Notably, the revelations embodied in the Consent Decree and the several times the City exceeded interim permit limits resulting in extensive fish kills were never a significant part of any of the municipal campaigns for office. Besides the obvious and numerous street cuts throughout town to separate the storm sewer from the sanitary sewer, and the related costs, the electorate, including me, was oblivious to the seriousness of the environmental issues occurring on our behalf as customers of the municipal sewer service. As it turns out, many people wanted it that way, including the municipal incumbents, IDEM and the Attorney General.

The election on November 3, 1987 resulted in a new mayor and several new councilmembers. It was a startling and sweeping upset of several long time incumbents. Elections have consequences, and the mayor-elect began appointments to key positions in his yet to be sworn-in administration. One of those appointments was me in my inaugural term as City Attorney.

On November 10, 1987, the Indiana Attorney General filed suit against the City of Plymouth. The complaint sought preliminary and permanent injunctive relief, and civil penalties in excess of \$1.25 million. The dollar amount sought represented three times the annual cash reserves for the Wastewater Department; easily fifteen percent of the City's entire operating budget. The suit certainly got the attention of municipal officials, local media, and the public. As later admitted to me, it was a calculated decision by state officials to hold the suit filing date in abeyance until after Election Day to avoid any accusations of trying to influence the results.

This case is one of the five most significant legal matters entrusted to me for several reasons. First, management of the case was deeply influenced by politics. As mentioned, earlier, the filing date was itself a political decision. After suit was filed, but before the new administration took office, the incumbent administration literally handed me a thin file. I was officially a non-official; I couldn't even appear on the City's behalf until after the first of January. And the incumbents were in no mood to lend assistance to the as yet to be sworn in rookie municipal attorney that had played a small role in their electoral defeat.

Nor did the new administration find solace in the party affiliation shared with the Attorney General, the Governor, the Lt. Governor and, presumably, the Commissioner of IDEM. A hearing on IDEM's request for a preliminary injunction was set for January 13, 1988. On January 6, 1988, the previous City Attorney withdrew his appearance, and I entered mine with a motion to continue the hearing scheduled for the following week. The special judge denied the City's continuance request on January 8. IDEM was not about to wait for the rookie municipal attorney to learn the significance of BOD and TSS in the death of thousands of fish. IDEM's patience had worn thin waiting for the election to be held; I suspect they were as surprised as anyone, and perhaps a bit annoyed that a whole new crew was taking over for Plymouth.

The hearing was held as scheduled on January 13. A preliminary injunction on several issues was entered against the City, while other matters were addressed by agreement to aggressively schedule improvements within specific time limits. A hearing to assess civil penalties was set for February 11, 1988.

The second reason this case is of such significance in my career is the role I assumed as lead negotiator. We finally convinced state officials that an entirely new city administration, with limited knowledge of wastewater science, was actually a benefit. Collaboration, not confrontation, was the better path to a cleaner environment. Accordingly, an agreed order was entered on February 12, 1988, followed by another agreed order on August 22 which began by stating the City acknowledges “the seriousness of. . .[the] violations of interim discharge limitations for the months of June, July, and August of 1987.” The order continues by reciting IDEM “has taken into consideration the expense and effort taken by City of Plymouth since January of 1988 in its attempt to meet required discharge limitations and this expense and effort factors into the perceived deterrent effect of a civil penalty.” As a result the civil penalty sought by IDEM in the original amount of over one and a quarter million dollars was reduced to \$25,000 payable in fiscal year 1988, and \$25,000 payable in fiscal year 1989. Furthermore, the money was paid into the Office of Water Management to be specifically spent on remedial costs associated with replenishing fish into the Yellow River.

The third reason this legal matter is of such significance in my career is the resulting change in organizational culture for the City on environmental issues. The Plymouth Wastewater Treatment Plant, and its corresponding Industrial Pretreatment Program, are both models of efficacy. The Utility Superintendent and staff are acknowledged today as some of the best in Indiana. And the physical facility itself is the recipient of numerous annual awards from IDEM and the US EPA.

This paradigm shift to a good steward of the environment is not limited to wastewater treatment. For example, during the 1990’s, the City led Marshall County in implementing a recycling program with curbside pick-up. Another example is the remediation of a long abandoned underground fuel tank spill through the use of microbial organisms injected in the ground. That successful effort resulted in a Governor’s award in December, 1996 in which Plymouth was recognized then as a “case study community in Indiana’s Best Management Practices for the Environment for effectively and responsibly dealing with community environmental concerns, for promoting environmental awareness within the local community, [and] for sharing environmental successes with other Indiana communities.”

For me, though, no award can match tromping down to the banks of the Yellow River and to stand next to the outlet pipe as it discharges on average 2.2 million gallons a day of treated effluent into the river from the wastewater treatment plant. You generally will see hundreds of fish swarming around the point of discharge; fish literally on top of each other. That aquatic behavior indicates the treated water being released, that only hours earlier was raw sewage, is now more oxygenated and more clear and clean than the natural river flow itself. The fish know where to reinvigorate themselves. Now that is a metric with which you can live.

#### **4. Criminal Law (Prosecution)**

***State of Indiana v. Lyman Lawson*, Marshall Superior Court, No.: SCR 86-28;  
Unpublished Memorandum, 50A03-8711-CR-307 (Ind. App. 1988).**

I was assigned this case as a deputy prosecutor. Lyman Lawson was charged with one count of child molesting. The victim was Lawson's eight year old granddaughter; nine years old at the time of trial. Like many people, let alone children, she was intimidated by the courtroom, its many occupants, and the presence of her grandfather. She had great difficulty testifying clearly. Without more, there was a good chance Lyman Lawson could go free to molest again.

But there was more. Five women came forward during the investigation and eventually testified about molestations they each endured at the hands of Lyman Lawson. These women were his daughters and nieces, and they testified in vivid detail, often through tears, about events that occurred twenty and thirty years prior.

The witnesses testified in reverse chronological order. The oldest daughter testified first about events that occurred thirty years prior. The next oldest daughter then testified of events some twenty-eight years prior. And so it went with the remaining daughter and nieces until it was time for the nine year old granddaughter.

In final argument to the jury I portrayed the previous bad acts of the defendant as if each daughter and niece were a chapter in an autobiography, long ago written, of the life of Lyman Lawson. I recounted the details given by the now mature women of the acts of molestation committed upon their person as children by their father and for two, their uncle. I of course emphasized we were not there to find him guilty of those prior bad acts as those events were not and could not be charged. We were there on but one count involving the young granddaughter, the very last witness---the next to the last chapter of the book of the life of Lyman Lawson. It was up to the jury to write the final chapter.

The Chronological Case Summary for the Lyman Lawson court file records that the jury was given their charge and led out of the courtroom at 3:30 p.m. Presumably the jury had to elect a foreman, deliberate and then vote. At 3:45 p.m. the jury notified the bailiff a verdict was reached. It took that jury less than 15 minutes to convict. To my knowledge, that is an informal record of speed for a Marshall County jury that stands to this day.

The general rule in Indiana at the time of Lawson's trial was that evidence of other uncharged criminal activity to establish the guilt of an accused is not admissible, except where it may be used to prove intent, motive, purpose, identity, or common scheme or plan. However, the Indiana Supreme Court, as early as 1884, recognized an exception that in "prosecutions for incest, sodomy, criminal deviate conduct or child molesting, evidence of certain kinds of prior sexual conduct is admissible under Indiana's depraved sexual instinct exception to the general rule of inadmissibility of prior bad acts." *Lannan v. State*, 600 N.E.2d 1334, 1335 (Ind. 1992). Thus, Lyman Lawson's prior acts of molesting his daughters and nieces twenty to thirty years earlier were admissible into evidence in 1987 under the depraved sexual instinct exception.

The Indiana Supreme Court changed all that in 1992. In *Lannan* the Court discussed in great detail the history of the depraved sexual instinct exception, analyzed both the recidivism rationale and the bolstering rationale for the exception, and debated its disadvantages. In the end, the Court abrogated the exception and replaced it with Rule

404(b) of the Federal Rules of Evidence, which was later adopted within the Indiana Rules of Evidence.

Unlike the three previously described matters, I consider this case significant in my legal career because of the impact it continues to have on my personal and professional edification. I am gratified of the way the theory of the case was presented and the speed with which the jury convicted. I have no qualms with the Court's decision five years later to eliminate the exception and replace it with an objective and all but universally accepted rule of evidence. And I understand, as emphasized by the Court in *Lannan*, that 404(b) may still render evidence of prior bad acts as admissible "for other purposes such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake." *Id.* at 1339. But I will always quietly reflect that if *Lannan* had been decided 6 years earlier and I would have tried the case under 404(b), would Lyman Lawson have gone free?

## **5. Administrative Law**

### ***Bremen Public Schools v. Mark Varab*, 496 N.E.2d 125 (Ind. App. 1986).**

Mark Varab and another young man were accused of possessing and smoking marijuana while in Bremen High School. The event allegedly occurred on a specific day in February, 1985. The students were expelled for the remainder of their senior year.

The allegations were quite thin on evidence. The boys were in a home economics class which was focused on that day to cooking cakes, cookies and brownies. The room was filled with an abundance and variety of aromas. At the administrative hearing the long time teacher of home economics in Bremen testified that she smelled nothing unusual in the room. But a fellow student testified she could smell marijuana cooking. No marijuana was ever found on the boys, in their personal effects or in their lockers, or in the culinary items they were cooking. The boys consistently denied using marijuana that day. The only evidence against them was the untested olfactory conclusion of a teenage girl admittedly in a room full of conflicting cooking smells. Yet, the boys were expelled from the final three months of their high school careers.

I represented Mark Varab throughout the proceedings. First was the administrative hearing. After the decision to expel the boys, we sought and were granted a temporary restraining order which permitted the boys to remain in school pending a hearing on the motion for a preliminary injunction. Parallel to those proceedings was exhaustion of administrative remedies on the school disciplinary matter which resulted in the initiation of an appeal of the expulsion decision to the Marshall Superior Court.

After hearing, the court granted the preliminary injunction. The boys continued to attend school while the appeal of the administrative decision progressed in the trial court. The appeal was soon submitted to the trial court for its determination. On August 6, 1985 the trial court issued its decision that since the boys should have graduated in June of 1985, the matter in controversy was now moot and the case was dismissed. Bremen Public Schools appealed that decision to the Indiana Court of Appeals.

A year later, in August of 1986, the Court of Appeals affirmed the trial court in its finding that the issues related to the injunction were moot. The Court reversed, however, the trial court's decision as it related to the dismissal of the students' appeal from the order of

expulsion. From there the case went into limbo to eventually be dismissed three years after the boys' graduation ceremony.

This case is one of the five most significant legal matters entrusted to me because of its potentially grave and lasting impact on the lives of those two young men. It remains of great professional concern to me how such an important administrative decision as expulsion from a student's final high school semester can be based on such flimsy and unreliable evidence. The potentially negative outcome was disconcerting had we not fought relentlessly to keep those boys in school. It is a noble calling to practice administrative law and, as a final resort, to hold accountable powerful administrative agencies by appeal to the judiciary. That includes agencies as diverse as a small, local school corporation or as large as a statewide multi-billion dollar pension fund. See, as another example, *Board of Trustees of the Public Employees Retirement Fund v. City of Plymouth, et. al.*, 698 N.E.2d 335 (Ind. App. 1998). Even Don Quixote enjoyed a victory or two.

## 7. Efforts to Improve the Legal System, Administration of Justice, or Society

- A. Describe your efforts, achievements, or contributions (including written work, speeches, or presentations) toward the improvement of the law, the legal system, or the administration of justice. Include a description of any management or leadership roles you undertook to achieve these goals, and describe any specific instances in which your collaborative efforts helped achieve these goals.

**Marshall County Community Corrections, 2014-present.** Marshall County is one of the last five counties in Indiana to establish a Community Corrections entity. I, along with several stakeholders, approached local legislators in 2014 to initiate a proposed change in the law to reduce the membership of the required advisory board from approximately 24 members to a more manageable 5 to 8 member. Local legislators took up the cause, only to be rebuffed by statewide stakeholders, including most notably, the Department of Corrections. Consequently, the effort failed in the legislature. A compromise, however, was struck to reduce the advisory board to approximately 19 members. Still Marshall County did not establish a Community Corrections entity. After I took office as Prosecuting Attorney in 2015, I made clear among the same stakeholders the status quo was unacceptable, particularly in light of recent sentencing changes that the DOC would no longer accept Level 6 offenders beginning January 1, 2016. Also encouraging for local stakeholders was the funding that became available from the Department of Corrections. So, the process was started and Marshall County Community Corrections became a reality in mid-2015. As Prosecuting Attorney, I am a statutory member of the Advisory Board. I volunteered for a leadership role as a member of the Executive Board vested with the power to manage day to day operations.

**Chair, Sexual Assault Response Team, 2013-present.** I chair this statutorily required multi-disciplinary team established to develop a protocol for the response and investigation by local law enforcement of sexual assaults.

**Chair, Child Fatality Review Team, 2012-present.** I chair this statutorily required multi-disciplinary team established to review the circumstances of the death of children up to 3 years of age. The objective is to determine if the cause of death was preventable, report these findings and to develop public awareness about the preventable causes.

**Member, Child Protection Team, 2012-present.** This team is organized by Department of Child Services and consists of DCS case managers, school counselors, CASA director, local pastors, the guardian ad litem, local law enforcement, the a representative from the prosecutor's office. The monthly meetings generally discuss current DCS cases and their vetting of possible treatment and outcomes. I introduced the team to immediate answers to their questions of the status of criminal cases by me texting the office administrator for answers.

**Member, Committee on American Citizenship and Naturalization, Indiana State Bar Association, 2015-present.** Attend when available naturalization ceremonies on behalf of the Indiana State Bar Association.

**Member, Public Relations Committee, Indiana Prosecuting Attorneys Association, 2015-present.** The objective is to enhance transparency and the dissemination of information to the public of the activities of the 91 elected prosecuting attorneys in Indiana.

**Presenter on Criminal Justice and Public Safety to Leadership Marshall County, 2012-present.** I give an approximate one hour lecture on the role of the Prosecutor's Office, and its many functions, to the adult students in the local leadership academy.

**Power point presentation on Preventing Elder Financial Abuse, 2015-present.** This presentation is given to various groups and entities in the Marshall County community, including for example the Bremen Kiwanis, Plymouth Lions Club, two service clubs in Culver, and an assisted living facility in Plymouth.

**Power point presentation introducing the Marshall County Prosecutor's Office, its staff and its mission and functions, 2015-present.** This presentation is given to various groups and entities in the Marshall County community including high schools and elementary schools.

**Member, Legislative Committee, Indiana State Bar Association, approximately mid 1980's.** As a young lawyer, I participated in committee activities as it reviewed and proposed legislation that had an impact upon the legal profession in Indiana.

- B. Describe your efforts, achievements, or contributions (including written work, speeches, or presentations) concerning civic, political, or social issues. Include a description of any management or leadership roles you undertook in this area, and describe any specific instances in which your collaborative efforts in this area led to a successful result.

**Currently developing a program entitled, "The Responsible Retail Sale of Pseudoephedrine Based Cold Medicine."** This is modeled after the program in Fulton County which encourages local pharmacists to independently determine if the person purchasing the cold medicine has a legitimate need or if there is a high risk that the item purchased would be used in the manufacture of methamphetamine. Fulton County successfully collaborates with the local pharmacies through public awareness and the adoption of a city and county ordinance. My objective is to duplicate the program in Marshall County. I have spoken on the topic to committee members of Drug Free Marshall County.



**E. Nelson Chipman, Jr., “*Call it Anything But a Layoff: A Primer for a Reduction in Force While Maintaining Service*,” Actionlines, Indiana Association of Cities and Towns, Vol. 11, Issue 11 (December, 2008).**

**Presentation, *Reduction in Force*, Indiana Association of Cities and Towns Annual Conference, October 13, 2008.**

**Presentation, *Reduction in Force*, Indiana Municipal Personnel Administrators for Cities and Towns Annual Conference, May 20-22, 2008.**

**Chair, Marshall County Election Board, 2011-2014.** I was appointed to the Board by the Marshall County Republican Chairman and co-managed several elections, both primary and general. The Election Board also began the process of transitioning toward Voting Centers, as well as initiated the acquisition of state of the art election technology. Collaboration between the two political parties, their chairmen, county commissioners and county council is essential to the fair and efficient management of elections. I resigned simultaneously with becoming an announced candidate for Prosecuting Attorney.

**Delegate, Indiana Republican State Convention.** Eighteen year old’s gained the right to vote for the first time in 1972. I filed for an open delegate seat to the Republican State Convention to be held later in the summer of 1972, and was elected at the age of 18. Since 1972, I have been elected or appointed a delegate approximately 8 times, with the most recent being 2012 and 2014. I am currently on the ballot for the 2016 Republican State Convention.

**Chairman, Plymouth City Republican Committee, 1987.** Our collaborative campaign efforts resulted in a Republican mayor replacing a twenty year incumbent, and changed the City Council make-up from a 4 to 1 Democrat to Republican ratio, to a 4 to 1 Republican to Democrat ratio.

**Speech, “Why we are Republicans,” Marshall County Lincoln Day Dinner, 2007.**

**Speech, “Why we are Republicans,” Elkhart County Lincoln Day Picnic, 2007.**

**Republican Precinct Committeeman, Marshall County Republican Central Committee, Bourbon Township, approximately 2006-2009.**

**Republican Precinct Committeeman, Marshall County Republican Central Committee, West Township, 2010-present.** I am currently on the ballot for re-election.

**Mike Pence for Indiana, Policy Working Group on Regulation and Administration, 2011-2012.**

- C. Describe your efforts, achievements, or contributions (including written work, speeches, or presentations) to improve your local, state, or national community through charitable work or public service. Include a description of any management or leadership roles you undertook in this area, and describe any specific instances in which your collaborative efforts in this area led to a successful result.

**Prevent Child Abuse Marshall County—a chartered affiliate of Prevent Child Abuse Indiana, 2015. Co-founder and charter member of advisory board.** The death of a 3 year

old while in the custody of her mother's boyfriend sparked a large collaborative community effort to form the first organization in Marshall County focused entirely upon the prevention of child abuse. Initial steps have been completed for the incorporation of the entity and to seek not-for-profit status under the IRS code. Numerous activities aimed at raising public awareness are planned for the near future.

**Plymouth Civic Improvement Corporation, Inc. Co-founder and served as counsel and secretary/treasurer.** I incorporated PCIC and obtained not-for-profit status for the entity under the IRS code. (No compensation) The objective for the corporation was to be the vehicle to receive donations and build an almost half million dollar amateur baseball field and spectator arena. Nixon Field was dedicated May 4, 1996. Ownership of Nixon Field was then transferred without compensation to the City of Plymouth, as it is located within the friendly confines of Plymouth Centennial Park. The facility continues today as a major civic asset and serves as a prized venue for state and local baseball games and tournaments. The corporate entity was relatively soon thereafter used in an identical way by a totally different group of individuals to construct a state of the art soccer field and spectator arena called Kindt Field at a cost of approximately \$950,000. That too was a success and I continued to serve as counsel and secretary/treasurer. Upon completion of construction in 2000, ownership was then transferred without compensation to the Plymouth Community School Corporation. The corporate entity was later transferred to yet another group of individuals who changed the name to Wythougan Valley Preservation Council, Inc., with a corporate focus upon the preservation of historic structures. Other than donating my services to effectuate a change of the corporate name and by-laws, I am not affiliated with Wythougan Valley. That entity continues to thrive.

**Plymouth Industrial Development Corporation (PIDCO).** Member, Board of Directors, 2007-2009. A fifty year old for profit entity that owns and at times develops land in industrial zones within Plymouth with the objective of attracting manufacturing companies that in turn create local jobs. The early years were very successful, and recent efforts hold much promise with the collaborative effort of several entities in building a spec manufacturing structure.

**Marshall County Humane Society, Inc. Co-founder, first president and original Board of Directors.** December, 1982. Organized individuals with a similar interest in the humane treatment of domestic animals, abandoned or otherwise. I incorporated the entity (no compensation) and succeeded in obtaining not-for-profit status under the IRS code. Collaborative efforts with Congressman John Hiler and county officials resulted in the transfer of ownership of land and buildings from a federal agency to Marshall County government. Subsequently, a 99 year lease on the property and buildings was executed between the county and the Humane Society. The buildings were rehabilitated and resulting in the Humane Society shelter was opened in 1987 and remains a vibrant part of the Marshall County community.

**Power point presentation on the impact of the Spanish Flu Pandemic in 1918 and the potential similarity of contemporary strains of Bird Flu.** I gave several presentations during 2006 and 2007 in the communities of Elkhart and Plymouth and Marshall County. I also made a presentation entitled, "Preparation for Pandemic Influenza" at the Indiana Association of Cities and Towns Annual Conference on September 26, 2006. Furthermore, I made a similar presentation to municipal lawyers, noted below, with a focus on the legal

response to a pandemic, with an emphasis upon what is necessary to trigger the process that creates a chain of civilian authority as it relates to involuntary quarantines.

D. Describe the nature and extent of any *pro bono* legal services you have contributed.

**Through the early years of my private practice, I volunteered to provide *pro bono* legal services through Legal Services, Inc. that as I recall had an office in South Bend. I did not keep a record of the extent of my volunteer services; at that time I received individual referrals as screened by Legal Services. And of course there is the informal provision of no cost legal services that occurs on initial consultation.**

**I also volunteered to screen on behalf of the Honorable Allen Sharp, Judge of the United District Court for the Northern District of Indiana cases filed by prison inmates related to alleged civil rights violations. I estimate I screened four cases in the late 1980's early 1990's before I became a deputy prosecutor.**

E. Indicate your experience teaching law. Provide the dates, names of institutions or programs, and a description of the subject matter taught.

**Adjunct Professor of Law, Valparaiso University School of Law, (1992-1995). Instructor for Trial Advocacy to second year law students.**

**Lectured on recent legislative changes for drug offenses and sentencing to local law enforcement officers, probation department officers, and school resource officers. Sponsored by Drug Free Marshall County and Plymouth FOP. March 17, 2015.**

**Conduct annual lecture on recent legislative updates in the criminal code and appellate decisions of interest to local law enforcement officers, including probation department officers and Community Corrections officials. August, 2015; 2014; 2013; and 2012.**

**Legal Preparation for Pandemic Influenza, Indiana Municipal Lawyers Association Annual Conference, Indiana Continuing Legal Education Seminar, Municipal Law XXIII, June 29, 2006.**

**Public Employee Issues, Indiana Association of Cities and Towns, Newly Elected Officials Conference, Ft. Wayne, IN, November, 2003.**

**Police and Firefighter Discipline, Indiana Association of Cities and Towns Annual Conference, September 29, 2003.**

**Police and Fire Discipline: Beyond the Basics, Indiana Continuing Legal Education Seminar, Municipal Law XX, June 17-18, 2003.**

**Fight Fire(works) With Fire, Indiana Continuing Legal Education Seminar, Municipal Law XV, June 18-19, 1998.**

**The First Amendment (Freedom of Speech and of Association) and Public Employee Discipline: Parameters of Protected Activity and Guidelines for the Employer, Indiana Continuing Legal Education Seminar, Municipal Law XII, June 22-23, 1995,**

8. Memberships and Other Activities

- A. List any memberships and offices you have held in professional organizations, including dates and descriptions of the purposes of the organizations and of your involvement.

**American Bar Association, 1981-85; 2012-present.  
Section on Criminal Justice.**

**Indiana Bar Association, 1981-85; 2001-present  
Committee on American Citizenship and Naturalization (previous member of  
Employment Law Section and Municipal Practice Section and Legislative Committee  
in the 1980's)**

**Marshall County Bar Association (President, 1991-1993; Vice President, 1988-1990;  
Treasurer, 1986-1988).**

**Elkhart City Bar Association, 2001-2007.**

**National District Attorneys Association, 2012-present.**

**Indiana Prosecuting Attorneys Council, 2012-present. Public Relations Committee.**

**Indiana Municipal Lawyers Association, 1990-2012. (Board of Directors, 1998-1999;  
2008-2009; Vice President, 2009-2010; President, 2010-2011)**

**Indiana Association of Cities and Towns (Board of Directors, 2010-2011; Legislative  
Review Committee).**

**Indiana Municipal Personnel Administrators for Cities and Towns, approximately  
2006-2012.**

**Greater Elkhart Personnel Association.**

**Elkhart County Medical Emergency Planning Council, approximately 2006-2007.**

**Elkhart County Emergency Management Advisory Council, approximately 2005-2007.**

**Indiana Homeland Security District 2 Steering Committee, approximately 2006-2007.**

- B. List any memberships and offices you have held in civic, charitable, or service organizations, including dates and descriptions of the purposes of the organizations and of your involvement.

**Potawatomi Wildlife Park, Tippecanoe, IN. Sustaining member, 2013-present. It is a 317 acre low impact park owned and managed by a not-for-profit private foundation. It is "a place where the natural, historical, and cultural features of the area are conserved, protected and restored for use and enjoyment by present and future generations." I am a financial supporter.**

**Marshall County Historical Society, Plymouth, IN. Donor and member, 2010-present. A local historical society focused on the preservation of the history of Marshall County and its residents. The society maintains a museum of local artifacts. I am a financial supporter.**

**United Way of Marshall County, Inc.** Government chair, 1996; for several years previous and subsequent, I solicited donations from employees of various government entities. It is the local United Way fundraising entity. Each year donations increased over the amount from the previous year. I am a financial supporter as well.

**Plymouth Kiwanis.** Member approximately 1990 to 1992. Kiwanis is a public service organization.

**Wythougan Chapter of Toastmasters International, 2005-2008.** An organization devoted to improving a member's skill at public speaking.

**National Rifle Association of America, Member from 2013-present.** The organization is largely known for its advocacy in the preservation of individual rights afforded by the Second Amendment. My interest is primarily firearm education and safety programs.

- C. List any memberships you hold in social clubs or organizations. If any restrict its membership on the basis of race, sex, religion, or national origin, please describe your efforts within the organization to eliminate restrictions.

**Plymouth Country Club.** Social membership.

- D. Describe your hobbies and other leisure activities.

**All things aquatic: fishing, boating, snorkeling, scuba diving. Cycling. Reading current events and non-fiction, including books on tape. Listening to music. Watching a wide variety of spectator sports.**

9. Legal Proceedings

- A. List any lawsuits or legal proceedings in any jurisdiction, including but not limited to bankruptcies, dissolutions, and criminal matters to which you have been a party. Provide dates, case numbers, courts, names of other parties, and, if needed, a brief explanation. (If minor children are involved [i.e. an adoption], use initials only.)

**E. Nelson Chipman, Jr., Prosecuting Attorney for the 72<sup>nd</sup> Judicial Circuit and Bremen Police Department v. Zachary J. Steele, Marshall Superior Court No. 1, No.: 50D01-1510-MI-59.** This is a civil forfeiture action filed in October of 2015 which seeks to approve the seizure of \$2263 in cash, and a no lien 2007 automobile. It is alleged the cash and vehicle are proceeds from illegal drug transactions. The case remains pending.

**E. Nelson Chipman, Jr., Prosecuting Attorney for the 72<sup>nd</sup> Judicial Circuit and the Undercover Narcotics Investigations Team v. Attinderpal Singh Khalsa, Marshall Superior Court No. 1, No.: 50D01-1503-MI-021.** This case was filed in March, 2015 and successfully completed on April 20, 2015. The court approved the seizure of \$13,039.94 which represented proceeds from the sale of synthetic marijuana at a gas station/convenience store. The proceeds are now in the County General Fund, minus attorney fees for retaining private counsel.

**In re: the marriage of E. Nelson Chipman, Jr. and Margaret M. Chipman; Kosciusko Circuit Court, Cause No.: 43C01-0010-DR-708.** Petition for dissolution of marriage filed

by me pro se October 3, 2000; decree of dissolution, with settlement agreement filed January 2, 2001.

- B. If you ever have been arrested or cited for any violation of the law other than for routine traffic violations, provide dates, jurisdictions, and an explanation of the event and its resolution.

**Summons issued for minor in possession of alcohol, approximately March, 1972; Plymouth City Court.** I, along with two peers, legally purchased a six pack of beer in the State of Michigan, but brought it back to Indiana. The unopened beer was found by Plymouth Police in one of our cars parked at a high school dance. We were seniors in high school and 18 years of age. We each admitted our transgression and were fined \$25.

- C. If you have been disciplined or cautioned, formally or informally, by the Indiana Supreme Court Disciplinary Commission, by the Indiana Commission on Judicial Qualifications, by the Indiana Supreme Court, or by similar entities in any other jurisdiction, identify each instance by date, case number (if applicable), and describe the circumstances and the nature of the outcome or resolution.

**No.**

- D. If you have any outstanding federal, state, or local tax obligations, please itemize and explain.

**No.**

#### 10. References

- A. Provide the names of three attorneys who have been your professional adversaries in your practice or who have litigated substantial cases in your court and who would be in positions to comment on your qualifications for appointment to the Indiana Supreme Court (contact information to be included in Part Two of this application).

**Jere L. Humphrey**

**Joseph R. Morris**

**Tom A. Black**

- B. Provide the names of three professional references other than those listed in Subsection 10A (contact information to be included in Part Two of this application).

**Honorable Robert O. Bowen**

**Honorable Dean A. Colvin**

**Honorable Graham Polando**

- C. Provide the names of three personal references other than those listed in Subsection 10A or 10B (contact information to be included in Part Two of this application).

**David R. Holmes**

**Brent A. Martin**

**John J. Oliver**

11. State Police Release Form and Photograph

- A. Complete a State Police release form printed on green paper (you may obtain the release form by contacting the Nominating Commission Office at 317-232-4706). Include the release form with the original application only and not with the copies.

**Submitted.**

- B. Attach a recent photograph of you to the front of the original application and to each copy of your application. (This allows the Commission members to put a face with a name if you are interviewed in person.)

**Done.**

January 21,  
2016

/S/ E. Nelson Chipman, Jr.

---

Date

---

Applicant Signature

E. Nelson Chipman, Jr.

---

Printed Name